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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,265	11/28/2003	William K. Hilfiker	035105-2	1245
7590	08/13/2004		EXAMINER	
JOHN K. UILKEMA THELEN REID & PRIEST LLP P.O. BOX 190187 SAN FRANCISCO, CA 94119-0187			LEE, JONG SUK	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/724,265	HILFIKER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jong-Suk (James) Lee	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12-15 is/are allowed.
- 6) Claim(s) 1-4,8,11,16 and 20-22 is/are rejected.
- 7) Claim(s) 5-7,9,10,17-19 and 23-27 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/28/2003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities:

Claim 1, line 22: "successive mats" should be -- successive face mats --.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, **second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 8, 11, 16 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hilfiker'799 (US 5,722,799).

Hilfiker'799 discloses a wire earthen retention wall with separate face panel and soil reinforcement elements comprising successive welded wire soil reinforcing mats (20a) embedded in the formation at vertically spaced intervals, each said reinforcing mat being planar and comprised of spaced longitudinal wires (22a) extending into the formation and transverse wires (24a) extending across and welded to the longitudinal wires at spaced intervals, said mats terminating at the face of the formation, with one of said transverse wires extending across the face; and a welded wire face mat (10a) disposed at the face of the formation between each successive pair of soil reinforcing mats (see Figs. 11-15), each of said face mats comprising transverse wires (40, 41) at upper and lower portions thereof and spaced generally vertical wires (12a) welded to and extending across the transverse wires, the generally vertical wires of each successive face mat extending distally therefrom to provide fingers extending over transverse wires of the next successive face mat and behind the transverse wire of the soil reinforcing mat extending across the face between the successive mats (see Fig. 16); the successive soil reinforcing mats comprise a lowermost soil reinforcing mat, an uppermost soil reinforcing mat, and at least one intermediate soil reinforcing mat disposed between the lowermost and uppermost soil reinforcing mats (see Fig. 11); and the face mat disposed between the lowermost soil reinforcing mat and the intermediate soil reinforcing mat immediately thereabove includes distally extending fingers (F1, F2) hooked behind the transverse wire of the lowermost soil reinforcing mat which extends across the face, the successive soil reinforcing mats comprise a lowermost soil reinforcing mat, an uppermost soil reinforcing mat, and at least one intermediate

soil reinforcing mat disposed between the lowermost and uppermost soil reinforcing mats; and the face mat disposed between the uppermost soil reinforcing mat and the intermediate mat immediately therebelow includes distally extending fingers hooked behind the transverse wire of the uppermost soil reinforcing mat which extends across the face, the reinforcing mat rests on a transverse wire (39) of the face mat; and means/transverse bar (39, 41) securing the reinforcing mats to the face mats; at least certain of the face mats disposed between successive soil reinforcing mats being comprised of paired separate face mat elements secured one above the other in edge-to-edge relationship (see Fig. 11).

Hilfiker'799 further discloses the method for retaining and reinforcing an earthen formation and securing a face fo the formation against sloughing by placing a first second and third welded wire face or reinforcing mats between backfilling and compacting soil (see col.10, lines 13-67; col.11, lines 1-7).

#### *Allowable Subject Matter*

6. Claims 12-15 would be allowable over the prior art of record.
7. Claims 5-7, 9, 10, 17-19 and 23-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose retaining wall system, earth structure for constructing

with supports having rearwardly located portions and welded wire components gabions for the retaining wall.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
August 10, 2004



**Jong-Suk (James) Lee  
Primary Examiner  
Art Unit 3673**